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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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RAJKO LJUTICA,

Plaintiff,

v.

ALBERTO R. GONZALES, U.S. Attorney
General, MICHAEL CHERTOFF, Secretary,
Department Homeland Security, EDUARDO
AGUIRRE, Director, U.S. Citizenship and
Immigration Services, ANDREA J.
QUARANTILLO, Field Office Director, New
York,

Defendants.
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07 Civ. 6129 (JSR)

**DEFENDANTS' RESPONSE TO
PLAINTIFF'S STATEMENT OF
UNDISPUTED FACTS**

Pursuant to Rule 56.1(b) of the Local Civil Rules of the United States District Court for the Southern District of New York, Alberto R. Gonzales, Attorney General, Michael Chertoff, Secretary of the Department of Homeland Security, Dr. Emilio T. Gonzalez, Director, United States Citizenship and Immigration Services ("CIS"),¹ and Andrea J. Quarantillo, Field Office

¹ Eduardo Aguirre, originally named as a defendant in this lawsuit, is no longer the Director of CIS. Pursuant to Fed. R. Civ. P. 25(d), Dr. Emilio Gonzalez, the present Director, is automatically substituted for Mr. Aguirre as a defendant.

Director, New York, respond to plaintiff Rajko Ljutica's statement of undisputed facts² as follows:

4. Admit that Ljutica was charged with conspiracy to commit bank fraud and attempted bank fraud, in violation of 18 U.S.C. §§ 371 and 1344 and 2. Admit that Ljutica pleaded guilty to attempted bank fraud on May 26, 1993. Admit that on December 16, 1993, the Honorable Shirley Wohl Kram sentenced Ljutica to 16 months in prison and two years of supervised release, and imposed a special assessment of \$50.00. Deny that Ljutica was arrested on April 26, 1990 or that he pleaded guilty on December 16, 1993. See Declaration of Kristin Vassallo, dated September 17, 2007 ("Vassallo Decl."), Exhibit E (Judgment of Conviction) (noting date of arrest warrant); Exhibit H (Plea Transcript); Exhibit M (Decision on Review of Denial of Naturalization Application) (stating that Ljutica was arrested on bank fraud charges in 1991).

5. Admit.

6. Admit that on April 29, 1996, Immigration Judge Matthew Adrian granted Ljutica's application for a waiver of deportation under INA § 212(c). Deny that Judge Adrian granted Ljutica permanent residency on April 19, 1996. See Vassallo Decl., Exhibit D (Notice of Removal of Conditional Basis of Lawful Permanent Residence) (stating that Ljutica is "deemed to be a lawful permanent resident of the United States as of the date of [his] original admission").

² At the time he filed his summary judgment motion, Ljutica did not file a separate statement of undisputed facts citing to record evidence, as required by Local Civil Rule 56.1. Nonetheless, defendants hereby respond to the listing of "Undisputed Facts" set forth in paragraphs 4 to 17 of Plaintiff's Motion for Summary Judgment. Should Ljutica file a Statement of Undisputed Facts that differs from the factual recitation contained in these paragraphs, defendants respectfully request an opportunity to respond.

7. Admit that on October 23, 1998, the Immigration and Naturalization Service (“INS”) received Ljutica’s application for naturalization. Admit that Ljutica had a preliminary interview on his application on January 13, 2000. Deny that Ljutica first submitted the application on January 13, 2000. See Vassallo Decl., Exhibit K (Application for Naturalization) (showing date of receipt as October 23, 1998).

8. Admit that in a decision dated October 9, 2001, INS denied Ljutica’s application for naturalization. See Vassallo Decl., Exhibit L (Decision, dated October 9, 2001).

9. Admit.

10. Admit that on March 28, 2005, CIS received Ljutica’s second application for naturalization. See Vassallo Decl., Exhibit N (Application for Naturalization) (showing date of receipt).

11. Admit.

12. Admit.

13. Admit.

14. Admit.

15. Admit.

16. Admit.

17. Admit.

Dated: New York, New York
October 1, 2007

Respectfully submitted,

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